

No. 9(1)2-6Lab/8669.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Labour Court, Faridabad in respect of the dispute between the workman and the management of Haryana Roadways, Ambala City.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 191 of 1979

(328-Fbd of 1981)

between

SHRI NAHAR SINGH, WORKMAN AND THE RESPONDENT MANAGEMENT OF HARYANA ROADWAYS, AMBALA CITY

Shri U. Kant for the workman.

Shri S.N. Gaur for the respondent management.

AWARD

This reference No. 191 of 1979 (Reference No. 328-Fbd. of 1981) has been referred to the Labour Court, Rohtak by the Hon'ble Governor of Haryana vide his order No. ID/Amb./116-79/43332, dated 9th October, 1979 under section 10(i)(c) of the Industrial Disputes Act, 1947 existing between Shri Nahar Singh, workman and the respondent management of Haryana Roadways, Ambala City. The terms of the reference was :—

Whether the termination of Shri Nahar Singh was justified and in order ? If not, to what relief is he entitled.?

On receiving this reference order, notices were issued by the Labour Court, Rohtak. The parties appeared and filed their pleadings, but at the stage of evidence of the parties the case was transferred to me by the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh.—vide his order No. 1(79)81-1-Lab, dated 20th October, 1981 from the Labour Court, Rohtak. I issued the notices to the parties. The parties appeared and gave the evidence before me.

The case of the workman according to his demand notice is that he was a bus Driver appointed in February, 1958 as permanent employee and was terminated on 18th October, 1976 by the General Manager Haryana Roadways, Ambala City on account of following reasons :—

Shri Balwant Singh, Conductor and the applicant were on duty on 8th October, 1976 in Bus No. 9953-HRA going from Karnal to Ambala City. Reaching at Nirokheri the bus got some defect and the passengers boarded another bus. The claimant was driving the bus slowly with this defect. When they reached Pipli chowk, the S.H.O. accompanied by a Havaldar entered the bus and stated that they had to go to Ambala City. The claimant and the conductor explained the defect in the bus but they annoyed even after the explanation and they took the bus to the Police Station Pipli and hurled abuses and beaten them mercilessly. They thrust liquor in their mouths and sprinkled it on their clothes and got prepared the medical report and were put behind the bars. They were produced before the Magistrate, Kurukshetra on 11th October, 1976 and the Magistrate on the same date fined Rs. 50 on the conductor and Rs. 150 on the claimant, on the allegation that the claimant was driving the bus without requisite licence. The revision was filed against the orders of the conviction which was accepted and the fine was refunded by the learned Additional Sessions Judge, Kurukshetra.—vide his order, dated 21st August, 1978. On this fact the claimant services was terminated while Shri Balwant Singh was reinstated and thereby the applicant was singled out and the respondent has adopted the method of pick and choose. Shri Balwant Singh and the claimant were tried and fined collectively and had not been mentioned specifically if they were fined for the three offences individually or collectively and that which offence the accused committed and under provisions of law were convicted. Shri Balwant Singh and the claimant were also tried and convicted on identical charges by the Court and the respondent reinstated Shri Balwant Singh Conductor and the same was not done for the claimant. No enquiry was conducted into the alleged allegations and no opportunity was given to the workman. The termination has been ordered on a false and frivolous grounds. So the workman is entitled for the reinstatement with full back wages and continuous service.

The case of the respondent according to the written statement is that the workman was arrested by the Police on 8th October, 1975 under the influence of liquor at Pipli and he was produced before the Magistrate, Kurukshetra who convicted and fined Rs. 150 and on that base the service of the workman were terminated on 10th October, 1976. In this case there was no need of regular enquiry in view of the proviso to clause 2 of Article 311 of the Constitution of India. In these circumstances there exists no Industrial Dispute

The case of Shri Balwant Singh was quite different because his conviction was set aside on technical grounds on the revision petition filed by him whereas the conviction of Shri Nahar Singh still stand. So he was not reinstated and the orders of the respondent was quite illegal. So the reference may be rejected.

On the pleadings of the parties, only one issue as per reference was made :-

1. Whether the termination of service of the workman was proper justified and in order ? If not, to what relief is he entitled ?
2. Relief.

My findings on the issue is as under :

Issue No. 1. The representative of the respondent argued that as stated by the workman in his demand notice he was on duty on Bus No. 9953 HRA-1 on 18th October, 1976 which was coming from Karnal to Ambala City. The Conductor Shri Balwant Singh and the workman driver was under the influence of Alcohol. The Pipli Police Station Incharge caught them Conductor and driver and got them medically examined and produced before the Judicial Magistrate on 18th October, 1976 who fined him Rs. 150 and Rs. 50 fine was imposed on the conductor. After this order the conductor went in revision. The copy of the revision is Ex. W-1. In this order the revision was filed by Shri Balwant Singh against the State of Haryana. These two persons were challaned separately and fined separately by the separate order. Shri Balwant Singh filed an appeal before the Additional and Session Judge, Kurukshetra who set aside the order of the lower Court on the technical ground citing the case of Zile Singh versus State of Punjab in which the learned court has not mentioned the crime on which the person was fined. Same was the case of Shri Balwant Singh so the orders were set aside on the technical ground and not on the merit of the revision. He further argued that the claimant choose not to file any revision before the Additional and Session Judge, Kurukshetra and the benefit of Shri Balwant Singh revision cannot be given to the workman as he has failed to file the revision against these order. Had he filed revision against these orders and his orders were also set aside then he will certainly get the same treatment as Shri Balwant Singh got as reinstatement in service. After his revision is accepted. The claimant order is still standing and he was found guilty of driving the bus under influence of alcohol. The respondent rightly pass the order which is Ex. W-2 that the workman had not cared about the passenger and the vehicle by driving the bus under the influence of liquor. It is not a case of one person under the influence of liquor but take cause to danger of more than 50 passengers travelling in the bus so the respondent management rightly pass the orders after receiving the information of fine and the allegation on the workman. He further argued that the workman in his statement has stated that he also filed the revision against the orders but he has not produced any copy of that order in this case. He has admitted in his cross examination that he sent his papers for filing the revision to his counsel but he failed to file the same with in time. It shows that he has not filed any revision against these orders and that orders still in the force and such persons cannot be retained in the employment as driver under the law. He further argued that the workman has admittedly on these facts in his demand notice that he was arrested by the police at Pipli and was fined Rs. 150 by the Judicial Magistrate, Kurukshetra. After admission of this fact there is nothing to prove by the respondent because the workman was terminated on the basis of the orders of the Court and there was no other found for termination when the orders were still good in the eye of law. The workman is not entitled to any relief.

The workman's representative argued on this issue that he joined the service of the respondent in the year 1958 and till 18th October, 1976 he worked efficiently without any complaint by the respondent. Previously he was in the Army with a good records and was a permanent employee of the respondent. The respondent illegally terminated the services of the workman on 18th October, 1976 as stated by the workman in his own statement as WW-1. As stated by the workman in his statement there was some defect in the bus coming from Karnal to Ambala City on which he was a driver and Shri Balwant Singh was the conductor on bus No. HRA-9953. The S.H.O. and one Head Constable went to have a lift upto Ambala but the workman and the conductor explained the defect in the bus but they annoyed and took the bus to the Police Station, where they were abused and beaten by the police mercilessly. They not only done this thing but they thrust liquor in their mouth and sprinkled liquor on their clothes and got them medically examined and set them behind the bars. It was all done by the Police Officer on account of annoyance. The workman has further stated that the conductor and the workman were not under the influence of liquor and they were made so by the Police persons. The workman and the conductor Shri Balwant Singh were produced before the Judicial Magistrate, Kurukshetra who without hearing the workman fined Rs. 150. The workman applied for the copy of the orders which was received very late. The workman and the conductor were tried on a single challan and collectively and when the learned Additional and Session Judge acquitted Shri Balwant Singh it means the workman is also acquitted by this order and the respondent should have given same treatment to the workman which they have given to Shri Balwant Singh Conductor who is reinstated by the respondent. The revision order is

Exhibit W-1. He further argued that the workman even tried to file a revision petition and sent the papers to the counsel for filing the revision petition but the counsel failed to submit the revision petition in time. Otherwise the workman had the same orders from the Additional and Session Judge, Kurukshetra and the conductor got the orders because orders were the same. So the workman is entitled for his reinstatement with full back wages and continuity of service.

After hearing the arguments of both the side and going through the file carefully I am of the view that the story of the workman cannot be believed when he admits in his demand notice that they were caught by the Police Officers. The Police Officers never caught any such person because on G.T. Road there are he hundred buses run from Delhi to Ambala and it cannot be believed that they insist on going on defective bus after their asking and there was no enmity proved with the police officers by the workman. When there was no enmity why they thrust liquor in their mouth. Then the workman was fined Rs 160 on the police challan for driving the bus under the influence of alcohol. The workman should have filed the revision as Shri Balwant Singh filed. As there is no revision petition filed and there is no order for setting aside the order of Judicial Magistrate which are final in this case of driving the bus under the influence of alcohol. The respondent has rightly terminated the services under the rules. The workman has settled in his statement that he sent the papers to his counsel who failed to file in the court at proper time. The workman should have called the counsel to clear this position whether he sent the papers to the counsellor not without which it cannot be believed that the workman tried to file the revision petition against the order of Judicial Magistrate. The workman has failed to put on the file the orders of the Judicial Magistrate for the fine. If there is no specific orders and not find for specific allegations that can be look into at this stage. But without the original orders of the Judicial Magistrate I cannot say what were the orders, whether they can stand in the eye of law because Shri Balwant Singh and the workman were treated separately and the orders were passed separately. The workman has stated in his statement that they were treated collectively on the same challan which can be seen by producing the copy of the Judicial Magistrate from where it can be presumed that the orders were collectively or separate order were passed in the case. The workman failed to produce the order, I cannot understand why he did not produce that orders. So the respondent has rightly made the orders of termination and there is no unjustification for termination. So the workman is not entitled for any relief. This issue is decided in favour of the respondent and against the workman.

This be read in answer to this reference.

Dated the 2nd August, 1982.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 1777, dated 17th August, 1982

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

HARI SINGH KASUSHIK,

Presiding Officer,
Labour Court, Faridabad.

No. 9(1)82-6Lab-8670.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Haryana Agro Industries Corporation Ltd., S.C.O., 825-26, Sector 22-A, Chandigarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 249 of 1978
(318 Fbd. of 1981)

between

SHRI SHIV NATH, WORKMAN AND THE RESPONDENT MANAGEMENT OF M.S. HARYANA
AGRO INDUSTRIES CORPORATION LTD., S.C.O., 825-26, SECTOR 22-A, CHANDIGARH

Present :— Shri Shiv Nath, workman in person.

Shri S. Kaushal, for the respondent management.

AWARD

This reference No. 249 of 1978 (318-Fbd of 1981) has been referred to the Labour Court, Rohtak by the Hon'ble Governor of Haryana,—vide his order No. ID/KNL/44-78/40809, dated 8th September, 1978 under section 10(i)(c) of the Industrial Disputes Act, 1947 existing between Shri Shiv Nath, workman and the respondent management of M/s. Haryana Agro Industries Corporation Ltd., S.C.O. 825-26, Sector 22-A, Chandigarh. The term of the reference was :—

Whether the termination of services of Shri Shiv Nath was justified and in order? If not to what relief is he entitled ?

Notices were issued to the parties on receiving this reference. The parties appeared and filed their pleadings. Initially the reference was sent to the Labour Court, Rohtak and it was transferred to this Court.—vide Secretary to Government Haryana, Labour and Employment Department, Chandigarh order No. 1(79)80-1 Lab, dated 20th October, 1981 and received this reference in the court on 4th December, 1981. The case of the workman according to demand notice is that he was appointed as Chowkidar and was terminated on 22nd August, 1975 taking the plea that he is appointed on *ad hoc* basis. In fact the termination was on account of involvement of the workman in criminal case at Panipat which was registered on 1st January, 1975. The workman did not file any demand notice due to criminal case pending in the Court. Now the criminal case has ended and the workman has acquitted so he is entitled for his reinstatement for his acquittal. The claimant has acquired a right of permanent employee as he has completed 240 days of service. The respondent has not complied with the pre-condition lay down under section 25-F of the I.D. Act. The respondent has kept a new man against the vacancy caused by the workman. The workman is entitled for his reinstatement with continuity of service after the acquittal order.

The case of the respondent according to their written statement is that the workman was terminated for his doubtful integrity. The workman was working as chowkidar in Farmers Service Centre, Panipat. There was theft in the store of Farmers Service Centre, Panipat and 20 bags of Urea Fertilizer was stolen away by breaking open the door and removing 20 bags of Urea in the night of 28/29th December, 1974. On the interrogation by the Divisional Engineer, Punjab, the workman confessed his hand in the theft as per the report of the Divisional Engineer. F.I.R. was also registered with the city police station, Panipat. The workman was placed under suspension. The management was under going an unnecessary expense of suspension allowance. So the workman was terminated as chowkidar and theft had actually been committed while he was on duty. So the respondent found that the workman was not a fit person to be retained in service. So his services were terminated as there was no confidence could be reposed in him. The workman did not give any demand notice at the time of termination and the demand notice was given on 9th November, 1977 after three years which can not be considered fit case for adjudication. The Judicial Magistrate acquitted the claimant not because he has proved not guilty but due to the mis-handling of the case by the Public Prosecutor and winning over of the witnesses of the prosecution which is not a fault of the respondent as the conduct and integrity was not above board. No employer can reposed confidence in such an employee. So no notice of implementing section 25-F of the I.D. Act was necessary, of such criminal and thief person and such person cannot be re-employed in the respondent concerned. The contents are mis-conceived and the respondent is not liable for such things.

On the pleadings of the parties only one issue was framed :—

1. Whether the termination of services of workman is proper justified and in order ? If not to what relief is he entitled ?

My findings on this issue is as under :—

Issue No. 1.— The representative of the respondent argued on this issue that the claimant was appointed as chowkidar on *ad hoc* basis as stated by the respondent witness Shri M.M. Kohli, Superintending Engineer as MW-2 in the year 1974. The claimant was posted at Panipat Farmers Service Centre as Chowkidar and Shri Krishan Kumar was the Store Keeper. On 30th December, 1974 the Store Keeper reported the matter of theft of 20 bags of Urea from the Store. The report of theft from the Store Keeper is Ex. M-1/1 which was given to the witness MW-2. On receiving the complaint the witness stated that he called the workman who stated that on 28th December, 1974 some outsider came and take the Urea bags. The workman gave in writing which is Ex. MW-1/2 which he had admitted in his cross examination that it is in his writing. The writing was without any pressure. After receiving this writing the head office was informed and a complaint was lodged with the police. The letter sent to Head Office is Ex. MW-2/1. The witness further stated that the workman was placed under suspension the copy of the order is Ex. M-1/1 and sought the approval of suspension of the workman which is Ex. MW-2/3 from the Managing Director. The witness further stated in his statement that he talked with the Director in confidence as such persons could not be reposed and so action be taken against this workman. So the witness received a letter from the Head Officer which is Ex. MW-2/4. He further argued that the Store Keeper of the respondent has also come as witness as MW-1 who has stated that there was a theft in the store and he found the Kunda broken on 30th December, 1974 and he reported the matter of theft which is Ex. MW/1/1 and Shri Kohli called all the Security Guard and made the

enquiry of his complaint. The workman admitted the fact before the Superintendent Engineer in writing. At the time of theft Shri Shiv Nath was on night duty and the other persons were on day duty. He further argued that the respondent also produced Shri S.N. Kumar Store Keeper, F.S.C. Panipat, who has brought a original ledger of the store by which it is clear that there was a theft in the store and the workman was involved in the theft as he has admitted in his statement Ex. MW-1/2. He further argued that after admitting the theft before the Senior Officer of the respondent, who is Superintending Engineer and who has come in the Court and gave the statement that the workman admitted and gave in writing Ex. MW-1/2, there should be no doubt that the claimant was not involved in the theft case. The Judicial Court acquitted the workman due to winning over the witnesses and mishandling the case by the public prosecutor. The respondent was within his right to terminate the services of such a person who is a thief and can not reemploy such persons. Moreover the workman did not give the demand notice at the time of his termination which was in the beginning of 1974. He gave the demand notice in the year 1977 after a lapse of three years. The workman has not explained the delay for filling the demand notice. So he is not be given the relief of his reinstatement. The workman was terminated because of loss of confidence and theft for such an employee there is no law, that he should be given benefit of section 25-F of the Industrial Disputes Act, 1947. So no notice was given for his removal because he was suspended on the charge of theft. The case was being tried in Judicial Court so no enquiry was necessary. After the admission of theft by the claimant there is no need of enquiry because theft was made during the duty hours. So the workman cannot be given the benefit of acquittal from the Judicial Court.

The representative of the workman argued that as stated by the workman as WW-1 he was appointed on 20th August, 1970 as chowkidar. There was a theft in the store and the workman was involved in the theft case which was decided by the judicial court on 17th September, 1977 and acquitted the workman. The copy of order is Ex. W-1/1. The workman was terminated from service on 22nd August, 1975 without any notice or charge-sheet or enquiry. The workman used to draw Rs. 208 per month and was not paid the wages of his suspension. He further argued that the document Ex. MW-1/2 was got written at the police station after beating the workman and was not given by his own will. The Judicial Court has rightly acquitted the workman and after his acquittal the workman is entitled for his reinstatement of service under the law.

After hearing the arguments of both the parties and going through the file I am of the view that the respondent was justified in making the termination order, keeping in view the admission of the claimant Ex. MW-1/2. The claimant has made the story of police beating after thought. He has admitted this fact in his cross examination that he was called for enquiry in office by Shri Kohli, Supt. Engineer. The respondent witness MW-2 Shri Kohli, S.E. is such a big officer who cannot tell lie and statement cannot be disbelieved that the workman did not give this writing to him, and in view of the theft and admission the respondent was justified in termination of the service and there is no claim after such termination of the workman for reinstatement. The termination was due to loss of confidence and theft. No employer will keep a thief person as Security Guard and watchman for watching the store. So the issue is decided in favour of the respondent and the workman is not entitled for any relief.

This be read in answer to this reference.

Dated the 2nd August, 1982.

Endst. No. 1778, dated 17th August, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)g2-6Lab/8671.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/S Haryana Roadways, Ambala City.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 174 of 1979

(323-Fbd. of 1981)

between

SHRI JAGDISH LAL, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S HARYANA
ROADWAYS, AMBALA CITY.

Shri U. Kant, for the workman.
Shri S.N. Gaur, for the respondent.

AWARD

This reference No. 174 of 1979 (323-Fbd. of 1981) has been referred to the Labour Court, Rohtak by the Hon'ble Governor of Haryana,—*vide* his order No. ID/Amb/41-79/41014, dated 18th September, 1979 under section 10(i) (c) of the Industrial Disputes Act, 1947 existing between Shri Jagdish Pal, workman and the respondent management of M/S. Haryana Roadways, Ambala City. The terms of the reference was:—

Whether the termination of service of Shri Jagdish Lal was justified and in order? If not to what relief is he entitled?

On receiving this reference order, notices were issued by the Labour Court, Rohtak. The parties appeared and filed their pleadings. Evidence of the respondent was recorded by the Labour Court, Rohtak, but at the stage of evidence of the workman the case was transferred to me by the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh,—*vide* his order No. 1 (79)81-1 Lab dated 20th October, 1981 from the Labour Court, Rohtak and I issued the notices to the parties. The parties appeared and gave the evidence before me. The case of the workman according to demand notice is that he was appointed as Conductor on 14th May, 1974 and doing his duty honestly. He was also posted as Adda Conductor but his services were terminated on 23rd December, 1973 without any notice or enquiry. The termination is illegal, void and inoperative, ultravires and un-constitutional. The orders of termination are discriminatory and the other conductor junior to him are still working with the respondent. The appeal of the workman was rejected by the authority and the workman is entitled for his reinstatement as he completed 240 days in continuous service with the respondent and cannot be terminated in this way as they have terminated.

The case of the respondent is that there exist no dispute between the workman and the respondent. The workman was appointed purely on *ad hoc* basis on 8-9-75 and thereafter his services being on *ad hoc* basis discontinued on 23-12-75 since the services of the claimant were purely on *ad hoc* basis so there was nothing wrong as per term of appointment letter and the reference may be rejected.

On the pleadings of the parties, the following issues were framed :—

(1) whether the termination of services of the workman is proper, justified and in order? If not to what relief is he entitled?

(2) Relief

My findings on the issues are as under :—

Issue No. 1—The representative of the respondent argued that the workman was appointed,—*vide* Ex. M-1, dated 8th September, 1975 purely temporary and *ad hoc* basis and the services can be terminated at any time without any notice as per orders dated Ex. M-1. His services were terminated by order Ex. MW-1/2, dated 23-12-75 as no longer required and the services were not terminated but discontinued as the workman was on *ad hoc* basis. After the termination the workman made an appeal against the order to the State Transport Controller Haryana which was rejected on 21-9-76 which is Ex. MW-1/3. The respondent witness MW-1 Shri Balbir Chand, Establishment Clerk has stated in his statement that the workman was appointed purely on *ad hoc* basis and produced the document MW-1/1 and also a document of discontinuation of service which is Ex. MW-1/2 under the Haryana Government rules. The persons are employed on *ad hoc* basis when they are required and their services can be terminated without notice when their services are not required. They are employed when there is vacancy exist when a permanent conductor went on long leave and when they came back after long leave the services of the employees on *ad hoc* basis discontinued when they join their duty. Same is the case of the claimant. The claimant was appointed on 8-9-75 and removed on 23-12-75 and worked only for three months and does not come under the continuous service and there was no need to give any notice to the workman, as there was no condition of service. In the appointment letter there is a clause that the services of the workman can be discontinued without any notice and accordingly his services were discontinued. He made an appeal which was heard by the State Transport Controller, Haryana and rejected the same because the workman was temporary appointed on *ad hoc* basis and his services were discontinued.

The representative of the workman argued that the workman was appointed on 14-5-74 and his services were terminated on 23-12-75 as stated by him in his statement as WW-1 which was supported by two other witnesses Shri Bansi Lal as WW-2 and Shri Rattan as WW-3. The services of the workman were terminated without any notice and compliance of provision under section 25-F of the Industrial Disputes Act. So, the orders were arbitrary and discriminatory and the other person employed with the workman were still working with the respondent and the respondent has not looked into the seniority of the workman so the termination of the workman is illegal in the eye of law. The appeal was also dismissed arbitrarily without hearing the workman. So no opportunity was given to the workman to be heard at any stage so he is entitled for the reinstatement with full back wages and continuous service.

After hearing the arguments of both the parties and going through the file I am of the view that the workman has failed to prove by any record that he was appointed on 14-5-74 whereas the respondent has produced the appointment letter of the workman which is dated 8-9-75. The workman could not rebut the document produced by the respondent. So the document produced by the respondent cannot be dis-delivered and the workman was employed purely on temporary and *ad hoc* basis and his services were terminated because his services were no longer required. The respondent is justified in making such orders and there is nothing wrong in the termination order. So the workman is not entitled to any relief and this issue is decided in favour of the respondent and against the workman.

This be read in answer to this reference.

Dated : 2-8-82.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 1779, dated 17th August, 1982.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Dispute Act, 1947

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad

No. 9(1)82-6Lab-8672 — In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s The Panipat Co-operative Sugar Mills, Ltd., Panipat.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

References No. 147, 148, 149, 150, 160 of 1981

between

S/SHRI INDERJIT SINGH, DASS RAM, VIJAY KUMAR, AJAIB SINGH, OM PARKASH,
WORKMEN AND THE RESPONDENT MANAGEMENT OF M/S THE PANIPAT
CO-OPERATIVE SUGAR MILLS, PANIPAT

Shri Gian Chand, for the workmen.

Shri R. S. Malik, for the respondent management.

AWARD

These references No. 147, 148, 149, 150, 160 of 1981 have been referred to this Court by the Hon'ble Governor of Haryana, *vide* his order No. ID/KNL/33-81/18593, dated 3rd April, 1981, ID/KNL/39-81/18575, dated 3rd April, 1981, ID/KNL/38-81/18587, dated 3rd April, 1981, ID/KNL/32-81/18581, dated 3rd April, 1981, ID/KNL/44-81/22193, dated 29th April, 1981, existing between Shri Inderjit Singh, Dass Ram, Vijay Kumar, Ajaib Singh, Om Parkash, workmen and the respondent management of M/s The Panipat Co-operative Sugar Mills, Panipat. The term of the references was :—

Whether the termination of services of Shri Inderjit Singh and four workers was justified and in order ?
If not, to what relief are they entitled ?

After receiving these references notices were issued to the parties. The parties appeared and filed their pleadings. The case of the workmen according to their demand notice and claim statement is that they joined the services of the respondent factory as a seasonal workman from 1973 to 1977 as given in their demand notice and claim statement. But they were not taken on duty in the season start from 25th November, 1980 without any notice or retrenchment compensation. They were seasonal employees and according to the Standing orders of the respondent provision L the seasonal workman cannot be terminated without 15 days notice which is mandatory on the respondent, but no notice was given to these workmen so the termination was illegal and the workmen are entitled for the reinstatement.

The case of the respondent according to its written statement is that these workmen were not regular employees of the respondent but casual daily wages employees and used to be call on work as and when needed in the factory and there was no need of notice to the workman according to their Standing Orders and the respondent was justified for not taking the workman on duty.

On the pleadings of the parties, only one issue as per reference was framed which is as under :—

- (1) Whether the termination of services of the workmen is proper, justified and in order ? If not, to what relief are they entitled ?
- (2) Relief ?

The above references were consolidated on the request of the parties on 23rd February, 1982 as the subject matter is the same and against the same respondent involving the same fact and law. So I consolidate these references and order that the evidence shall be recorded in Reference No. 147 of 1980 of Shri Inderjit Singh, workman. My findings on issues is as under :

Issue No. 1.—The representative of the respondent argued that as stated by the respondent witness Shri Hem Raj as MW-1 these workmen employed on daily wages and called when they are needed and they were not seasonal workmen and no retaining allowance is given to these workmen. The workmen were not regular employees. He further argued that as per standing orders clause L there was no need of giving the notice to casual and temporary workman. The workman have produced no letter of appointment and there is no such thing given in the demand notice. So there exist no dispute between the workman and the respondent under the Industrial Disputes Act.

The representative of the workman argued on this issue that the workmen were seasonal workers as admitted by the respondent witness Shri Hem Raj as MW-1. He has stated in his cross examination that Shri Vijay Kumar is working in the factory for the session 1975-76 and he give the days of every season. The witness has stated that the session start in November and finishes in March and April every year. He has further stated in his cross examination that Shri Ajaib Singh started working in the season 1973-74 and worked upto 1979-80 Shri Inderjit Singh started in season 1977-78 and worked upto 1979-80, Shri Om Parkash from season 1975-76 and worked upto 1979-80 and Shri Dosh Ram started from 1977-78 to 1979-80 and they were paid the wages on the registers. On this register paid off is written against their names. He further argued that the Provident Fund accounts of these workmen were summoned by the workman and the respondent brought the Provident Fund Register and gave the number of these workmen as Shri Ajaib Singh : 1720, Shri Vijay Kumar : 1994, Inderjit Singh : 2268, Om Parkash : 1884, Shri Dass Ram : 2273. He further argued that the workman produced copy of the order Ex. W-1, dated 3rd April, 1981 which is admitted by the respondent witness as correct. By this order the casual workmen were promoted on different posts. He further argued that the workman has produced the list of appointment of the casual workman in the season 1980-81 which shows the date of appointment of these workmen. They are the old workmen working with the respondent. The respondent removed the services of these workmen and appointed other persons in their places. It is proved even from the record of the respondent that these workmen were seasonal workmen and have the right to continue his services according to the standing orders of the respondent. The copy of which is attached with the file as shown in clause K of the Standing Orders, in which in clause 2 it is written that every seasonal workman who worked during the last season will be put on old job where he was in the R shift or in any of the usual shift. It shows according to standing orders they have illegally terminated the services of the workman and denied this fact in the written statement which cannot be believed. The workman has come in the witness box and Shri Inderjeet Singh stated as WW-1, Shri Om Parkash WW-3, Dass Ram, WW-4, Ajaib Singh, WW-5, and Shri Vijay Kumar WW-6. The case was also supported by the co-workman Shri Bhagat Singh as WW-2 who has stated that these workmen used to work in the factory as helper and their termination was illegal.

After hearing the arguments of both the parties and going through the file I am of the view that these workmen were seasonal workmen which are shown at Serial No. 2 of the classification of the workman and these seasonal workmen in the Standing Order and cannot be removed without any notice which is mandatory for 15 days as shown in clause L of the Standing Orders. The respondent witness has admitted in his cross-examination that these workmen worked in the factory for more than two seasons and they cannot be removed in this way as the respondent has removed. But from the statement of MW-1 it is clear that these workman had worked in the factory in different dates in the season and there was no fix pay for these workmen. So the workmen are entitled for their reinstatement but without any back wages and they were not permanent employees of the factory. The termination of the workmen by the respondent were not justified before me. So, their claim is genuine and they are entitled for the reinstatement without backwages but with continuity of service.

This be read in answer to this reference.

Dated the 3rd August, 1982

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court, Haryana, Faridabad.

Endst. No. 1780, dated the 17th August, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court, Haryana, Faridabad.